THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8077 of 2007

19.4.2007

Between:

V.Balakrishna, S/o.V.S.S.P.Rao

… Petitioner

AND

HMT Officers Cooperative Housing Society Ltd., TBC 483, Hyderabad And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The Government of Andhra Pradesh issued orders in G.O.Ms. No.67 Revenue (UC.IV) Department, dated 19.1.2007 allotting small extents of lands in survey Nos.588 to 591 situated at Alwal village of Malkajgiri Mandal in Ranga Reddy District, to twenty eight (28) members of HMT Officers Cooperative House Building Society – first respondent herein. The land in question is urban vacant land, which was declared surplus and vested in the Government under Section 10(3) of the Urban Land (Ceiling and Regulation) Act, 1975 (the Act, for brevity). It appears that first respondent and its members submitted representations on 22.10.2002 and 24.10.2002 requesting for allotment of surplus land to the members by undertaking to pay requisite compensation as per G.O.Ms.No.455, dated 29.7.2002. The proposals were submitted by the third respondent to the Government, who issued the G.O.Ms.No.67, dated 19.1.2007. Similarly, Government also issued G.O.Ms.No.182, dated 17.2.2007 allotting the land in survey Nos.588 to 591 to twelve more members of first respondent society. Aggrieved by these two G.Os, the present writ petition is filed seeking a writ of Mandamus to invalidate the two G.Os.

The petitioner claims to be a member of first respondent society. He alleges that the society purchased the land admeasuring Acs.25.00 in survey Nos.588 to 591 of Jonnabanda village, Alwal of Malkajgiri Mandal in Ranga Reddy District, from M/s.B.Ramachandra Rao and D.Narsing Rao. As the land is governed by the provisions of the Act, the society approached the Government and the Special Officer seeking exemption under G.O.Ms.No.136, dated 28.1.1981, whereunder sale of urban land in favour of cooperative house building societies subject to certain conditions were exempted from the purview of the Act. Be that as it is, when the Government issued

G.O.Ms.No.455, so as to regularize/allot the land to persons, who purchased the land under valid documents, the society sent list of members to whom the land is allotted. In the meanwhile, petitioner and eight others raised dispute, *inter alia*, that first respondent ignored genuine members and sent the list of persons, who are not at all members of the society. It appears that this dispute was referred to arbitration before the concerned Deputy Registrar of Cooperative Societies being Arbitration Case No.1 of 2006. The petitioner also sent a communication to the Special Chief Secretary to the Government of Andhra Pradesh in Revenue Department, in vain. In the meanwhile, the impugned orders are issued. Therefore, the present writ petition is filed.

Learned Counsel for the petitioner submits that when the case is pending before the concerned authority of the cooperative department, it was improper for the Government to have issued the impugned orders allotting the urban land to the alleged members of first respondent society. He also submits that the petitioner is a genuine member of the society and, therefore, first respondent ought to have allotted the land to the petitioner.

The writ petition, as framed, cannot be accepted for reasons more than one. Under Section 23(4) of the Act and under G.O.Ms.No.455, the Government is competent authority to pass orders. Curiously, the Government of Andhra Pradesh is not arrayed as party respondent. The Special Chief Secretary to Government of Andhra Pradesh in Revenue Department is shown as second respondent. He has nothing to do with the impugned orders nor a writ petition would lie against the Secretary to the Government. Be it noted that Secretaries/Principal Secretaries/Special Chief Secretaries or Officers of any designation only represent the Governments and discharge the functions as per the Government Business Rules framed under Article 166(3) of Constitution of India. Therefore, writ petition against them would not lie though for violation of Court orders, as beaurocrats, who authenticate the orders of the Government, are liable for contempt. Further as per Order XXVII and Order XXVII-A of Code of Civil Procedure, 1908 (CPC), the officers and beaurocrats working in the Secretariat of the Government only swear or verify the affidavits filed on behalf of the Government and they themselves cannot be treated as proper respondents. As the writ petition is filed without impleading the Government, the same cannot be entertained. By G.O.Ms.No.67, dated 19.1.2007, which is impugned in the writ petition, as many as 28 persons were allotted the urban land. By G.O.Ms.No.182, dated 17.2.2007 (yet another impugned order), the Government allotted land to twelve more persons. Curiously, all these

persons, who are the beneficiaries under the two impugned orders are not shown as party respondents. It is axiomatic that this Court cannot exercise power under Article 226 unless the parties likely to be affected by the writ of this Court are made parties (See **Prabodh Verma v State of U.P.**[1]). As seen from the two impugned orders, first respondent only sent proposals to the third respondent regarding regularization/allotment of land to the members. The Government also allotted land not to the society but to its members whose names were mentioned in the appendix to the impugned orders.

A copy of the Arbitration Case No.1 of 2006 before the Deputy Registrar of Cooperative Societies/Arbitrator is annexed to the writ petition. A perusal of the same would show that the petitioner was not included in the list of members submitted by the first respondent society when they sought exemption under G.O.Ms.No.136, dated 28.1.1981. This only shows that the petitioner was not allotted any land and was not in possession of the land. Unless and until necessary documents as required under para 4(e) of G.O.Ms.No.455 are produced, such person has no right to seek regularization/allotment under Section 23(4) of the Act. The petitioner, therefore, cannot be said to have any *locus standi* to question the impugned orders. He has to work out his remedies elsewhere.

The writ petition is misconceived and is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

April 19, 2007.
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[1] AIR 1985 SC 167